IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3180 of 2007()

CC.103/2007 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

.....

PETITIONER: ACCUSED:

SUDHEER, S/O. MEERA SAHIB,
T.C.35/491, SAMEER MANZIL, VIDHYA GARDEN,
VALLAKADAVU, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: STATE & DEFACTO COMPLAINANT:

----

1. **STATE OF KERALA,**
   REPRESENTED BY ITS PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. **SHAMILA S., D/O. SUBAIDA BEEVI,**
   KAVUMPURATHU VEEDU, KUNNUMPURAM WARD, KATTAKKADA,
   THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
BY ADV. SRI.R.GOPAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

= = = = = = = = = = = = = =

Crl.M.C. No. 3180 Of 2007

= = = = = = = = = = = = = = =

Dated this the 25th day of October, 2007

ORDER

The petitioner faces indictment in a prosecution for the offence punishable under Section 498A IPC. Cognizance has been taken on the basis of the final report submitted after due investigation. Crime was registered on the basis of the grievance raised by the 2nd respondent, the wife of the petitioner herein. After cognizance was taken the matter is now pending as C.C.No.103/2007 before the learned Chief Judicial Magistrate, Trivandrum.

2. The petitioner and the second respondent-complainant have now come before this court with a prayer that the prosecution initiated by the complainant before the learned Magistrate may now be quashed invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes amicably. The 2nd respondent has compounded the offence committed by the petitioner. The learned counsel for the second respondent vouches for the fact of composition.

3. I am satisfied that the parties have willingly and voluntarily settled their disputes amicably and the composition can be accepted.

4. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in

these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by the stipulations of Sec.320 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that the prayer of the petitioner and 2nd respondent can be accepted as this is one such case.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.103/2007 pending before the Judicial Chief Judicial Magistrate Court, Thiruvananthapuram against the petitioner under Section 498A is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE